111 FERC ¶ 61,119
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

April 22, 2005

In Reply Refer To:
North Baja Pipeline, LLC
Docket No. RP05-190-000 &
RP05-191-000

North Baja Pipeline, LLC
1400 SW 5th Avenue, Suite 900
Portland, OR 97201

Attention: Carl M. Fink, Esq.
Director, Rates & Regulatory Affairs

Reference: Joint Petitions for Limited Case-Specific Waivers

Dear Mr. Fink:

1. On February 17, 2005, North Baja Pipeline, LLC (North Baja) filed two petitions for limited case-specific waivers of the Commission's competitive bidding procedures[1] applicable under the capacity release provisions of North Baja's tariff. In Docket RP05-190-000, North Baja filed jointly with Coral Energy Resources, L.P. (Coral) and Energia Azteca X.S. de R.L. de C.V. (EAX), and in Docket RP05-191-000, North Baja filed jointly with Coral and Energia de Baja California, S. de R. L. de C.V. (EBC). Specifically, North Baja proposes in both dockets that it be allowed to omit these competitive bidding procedures and directly assign a portion of EAX's and EBC's firm capacity and its negotiated rate contract to Coral. The Commission will grant both requests for a limited, case-specific waiver and approve the arrangements concerning the payment to North Baja of the Reverse Flow Facilities Contribution, as requested in each docket, and discussed below. This order benefits the public by facilitating the development of infrastructure in the Southwest United States, facilitating the importation of regasified liquefied natural gas (LNG) into the United States and promoting cross-border energy trade with Mexico.

[1] 18 C.F.R. § 284.8 (2004).

2. On October 14, 2004, in Docket No. RP05-25-000, North Baja submitted a tariff filing with the Commission to, *inter alia*, add a new paragraph to its General Terms and Conditions that would allow original shippers on the North Baja system to reverse the primary direction of flow under their contracts and grant those shippers a one-time right to permanently assign all or a portion of their long-term firm negotiated rate agreements to creditworthy third parties. In Docket No. RP05-25-000, the Commission initially found that North Baja had not adequately supported this proposal to permanently assign negotiated rate agreements without undergoing a competitive bidding process,[2] but ultimately approved a case-specific waiver of the Commission's competitive bidding procedures for MGI Supply Ltd. (MGI) and North Baja in Docket No. RP05-85-000.[3]

3. In the instant filings, the petitioners request the Commission to grant a similar limited waiver that will encourage an increase of imports of LNG and development of the necessary infrastructure to bring that energy supply to the North American market. The petitioners also state that the subject waiver would be consistent with the waiver MGI and North Baja obtained in Docket No. RP05-85-000,[4] since this will also facilitate the future transportation of LNG, to be received at one or more terminals located on the coast of Baja California, Mexico, to electricity generation units located nearby.

4. In both dockets, the petitioners have agreed to a capacity assignment that allows Coral to receive the capacity EAX and EBC has on North Baja at the same rate EAX and EBC had negotiated with North Baja. In addition, Coral will pay North Baja a "Reverse Flow Facilities Contribution." Since the anticipated daily fuel requirements of EAX's and EBC's generation facilities would be generally less than the full downstream deliverability from any of the proposed Baja California LNG import terminals, it is planned that excess natural gas will be made available from this supply for export to markets in the Southwest United States, including California. North Baja, by reversing the line flow in its pipeline and freeing up capacity no longer needed by EAX and EBC, will be able to transport this natural gas on behalf of Coral, from the point of import at the U.S.-Mexican border to markets in California and Arizona.

5. The filings were noticed on March 2, 2005, with comments, protests, or motions to intervene due on or before March 9, 2005. No protests or adverse comments were filed. Notices of intervention and unopposed timely filed motions to intervene are granted pursuant to the operation of Rule 214 of the Commission's Rules of Practice and

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[2] *North Baja Pipeline, LLC*, 109 FERC ¶ 61,159 (2004).

[3] *North Baja Pipeline, LLC*, 109 FERC ¶ 61,269 (2004).

[4] *Id.*

Procedure (18 C.F.R. § 385.214). Any opposed or untimely filed motion to intervene is governed by the provisions of Rule 214.

6. Commission policy on capacity assignments, as reflected in 18 C.F.R. § 284.8 (2004), generally requires that the capacity be subject to posting and bidding procedures to ensure that it be assigned to the shipper who values it most. In this case, the proposed capacity assignment will occur at the levelized rate originally negotiated with North Baja. The Commission finds that these specific proposals, by giving financial certainty to EAX, EBC, Coral and North Baja, will facilitate the importation of natural gas from LNG terminals in Baja California, Mexico into the United States. Furthermore, a waiver would also reduce pipeline construction that would otherwise be required.[5] Additionally, the waiver will facilitate the development of energy infrastructure in the Southwest United States.[6] Finally, the waiver would be consistent with the November 5, 2004 Letter of Intent between the Chairman Wood and the Chairman of the Comision Reguladora de Energia to promote cross-border energy trade with Mexico.[7] Therefore, the Commission grants the petitioners' requests for limited, case-specific waivers of the competitive bidding procedures at 18 C.F.R. § 284.8 (2004) in order to allow EAX and EBC to assign firm capacity rights to Coral pursuant to the transaction arrangements described in the filings.

By direction of the Commission.

Magalie R. Salas,
Secretary.

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[5] *See* Joint Petitions at 7-8.

[6] *See* Joint Petitions at 6-7.

[7] *See* Joint Petitions at 7 n.12 (citing *Letter of Intent Between the Secretariat of Energy of the United Mexican States and the Federal Energy Regulatory Commission of the United States of America*, Nov. 5, 2004).